

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than **15 days prior to the close of the written comment period**. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person by **5:00 p.m. on July 30, 2007**. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407 of the Food and Agricultural Code, and to implement, interpret or make specific sections 9561, 9562, 9570 and 9574 of said Code, the Department proposes changes to Chapter 2, Division 2, of Title 3 of the California Code of Regulations, as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Food and Agricultural Code section 9561 authorizes the State Veterinarian of the Department to establish regulations to prevent or eradicate any condition that could cause risk to animals or the health and safety of the citizens of this State. Section 9562 further authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans. Section 9570 authorizes the State Veterinarian to restrict the importation of animals, animal products, or other property from any state, territory, or foreign country should a quarantine be invoked pursuant to section 9562.

In compliance with the above sections of law, the Department has in place regulations to specify the requirements for the movement of poultry according to certain disease conditions. The Department is repealing these requirements in sections 800 (Asiatic Newcastle Disease), 800.1 (Asiatic Newcastle Disease Quarantine Area), 801 (Duck Virus Enteritis), and 802 (Avian Influenza Interstate Movement), of Title 3 of the California Code of Regulations.

This proposal adopts new Article 13 (Interstate Movement of Poultry) and sections 821 (Definitions), 821.1 (General Requirements), 821.2 (Certificate of Veterinary Inspection), 821.3 (Interstate Livestock Entry Permit), 821.4 (Requirements for Entry of Poultry), and 821.5 (Violations), of Title 3 of the California Code of Regulations.

This proposal also incorporates by reference the National Poultry Improvement Plan, the Auxiliary Provisions, and VS Form 9-3 (Report of Sales of Hatching Eggs, Chicks, and Poult) under 9 CFR Parts 145 et seq., 146 et seq., and 147 et seq., (2007).

The intent of this proposal is to establish interstate movement requirements for poultry imported into California to help prevent and control the spread of poultry diseases within this State and the United States pursuant to Food and Agricultural Code section 9561.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Department has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The following compliance requirements are projected to result from the proposed action:

Paperwork:

1) Obtaining a Certificate of Veterinary Inspection. This proposal requires persons in other US states to obtain a Certificate of Veterinary Inspection prior to the entry of poultry from another state. An exemption is allowed for flocks participating in the National Poultry Improvement Plan. Any costs associated with obtaining a Certificate of Veterinary Inspection from a private veterinarian, or for participation in the National Poultry Improvement Plan cannot be determined by the Department. Poultry production facilities may utilize their own staff veterinarians to oversee the general health of their poultry, whereas other persons or businesses may need to pay for veterinary services. The Department cannot approximate costs for veterinary services as they vary by region, some veterinarians are salaried employees of businesses, and many businesses are located in remote areas which all affect costs.

2) Obtaining an Entry Permit. This proposal may require persons in other US states to obtain an Interstate Livestock Entry Permit prior to the entry of poultry into California. An Interstate Livestock Entry Permit is an internal record used by the Department to help locate animals during a disease outbreak. Information provided by the applicant may be used to investigate and determine sources of disease or infection, and to prevent subsequent spread of disease in California or the state

from which animals came. The Animal Health Branch is the only one place where an entry permit can be obtained for domestic livestock entering the State. Most requests for entry permits are applied for by telephone; however, the Animal Health Branch accepts requests for permits by other electronic means as specified. A unique permit number, indicating approval of the application, is usually issued immediately over the telephone after information is gathered. The applicant for the permit to transport livestock may request a copy of the permit from the Department, however, that rarely occurs as the applicant only needs the permit number for entry into the State. The applicant does not need to provide a copy of the permit itself to state or federal inspectors (when requested); however, the number of the permit must be included on the Certificate of Veterinary Inspection.

Reporting:

Pursuant to section 797 of Title 3 of the California Code of Regulations, specified persons are required to report certain conditions of avian species and commercial poultry to the Department or the United States Department of Agriculture, within timeframes specified on the List of Reportable Conditions for Animals and Animal Products.

Recordkeeping:

There are no specific requirements for recordkeeping in this proposal.

In making these determinations, the Department has not considered alternatives that would lessen any adverse economic impact on businesses and invites the public to submit such proposals during the written comment period. Submissions may include the following considerations:

- The establishment of differing compliance, reporting requirements or timetables that take into account the resources available to businesses.
- The consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Private Persons or Entities: The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Department are:

Paperwork:

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National Poultry Improvement Plan. Any costs associated with obtaining a Certificate of Veterinary Inspection from a private veterinarian, or for participation in the National Poultry Improvement Plan cannot be determined by the Department. Poultry production facilities may utilize their own staff veterinarians to oversee the general health of their poultry, whereas other persons or businesses may need to pay for veterinary services. The Department cannot approximate costs for veterinary services as they vary by region, some veterinarians are salaried employees of businesses, and many businesses are located in remote areas which all affect costs.

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Effect on Housing Costs: None

Finding of Necessity for Report: The Department finds that it is necessary for the health, safety, and general welfare of the people of California that this regulation requiring a report applies to businesses.

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Department of Food and Agriculture must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing (if a hearing is requested from the public), or during the public comment period.

INITIAL STATEMENT OF REASONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A-114, Sacramento, CA 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquires concerning the substance of the proposed regulations is to be addressed to the following:

Name: Dr. Annette Whiteford, Director
Address: Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 654-0881
Fax No.: (916) 653-4249
E-mail address: awhiteford@cdfa.ca.gov

The backup contact person is:

Name: Thami Rodgers, Associate Analyst
Address: Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 698-3276
Fax No.: (916) 653-4249
E-mail address: trodgers@cdfa.ca.gov

Written comments, facsimiles or e-mails regarding this proposal are to be addressed to the following:

Name: Thami Rodgers, Associate Analyst
Address: Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 698-3276
Fax No.: (916) 653-4249
E-mail address: trodgers@cdfa.ca.gov

Website Access: Materials regarding this proposal can be found at www.cdfa.ca.gov